

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

BEATRICE TILLIS

PLAINTIFF

VERSUS

CIVIL NO. 2:06cv134-DCB-MTP

LAUREL POLICE DEPARTMENT,  
THE CITY OF LAUREL,  
JAMES T. KIRKLEY, and  
JOHN DOES 1-15

DEFENDANT

ORDER

This matter comes before the Court on Defendant James T. Kirkley's Motion to Dismiss [**docket entry no. 10**]. Having reviewed the motion, response, applicable statutory and case law and being otherwise fully advised as to the premises, the Court finds as follows:

On May 19, 2006, Beatrice Tillis filed this 42 U.S.C. § 1983<sup>1</sup> lawsuit against the Laurel Police Department, the City of Laurel, and James T. Kirkley. The plaintiff alleges that Kirkley, while on-duty as a sergeant of the Laurel Police Department, entered the plaintiff's place of business, lured her to an isolated location, and sexually assaulted her. On September 18, 2006, the plaintiff filed a Motion for Additional Time [docket entry no. 5] to serve Defendant Kirkley. Tillis sought forty-five additional days to serve Kirkley because he had relocated to the state of Washington and was "evading service." District Judge Keith Starrett granted

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<sup>1</sup>The plaintiff also alleged various state law claims in her complaint.

the plaintiff's Motion for Additional Time on September 19, 2006. Kirkley was served on October 4, 2006, and he filed a Motion to Dismiss [docket entry no. 10] on October 20, 2006, wherein he argues that dismissal is warranted because he was untimely served.

Inasmuch as Judge Starrett granted the plaintiff's Motion for Additional Time, and service was obtained within that period of time, the defendant was properly and timely served. Accordingly,

IT IS HEREBY ORDERED that Defendant Kirkley's Motion to Dismiss [**docket entry no. 10**] is **DENIED**.

SO ORDERED this the 5<sup>th</sup> day of June, 2007.

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s/ David Bramlette  
UNITED STATES DISTRICT JUDGE